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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/483,277	01/13/2000	Ronald A. Katz	249/178 6646-114N7	8176

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REENA KUYPER, ESQ.
BYARD NILSSON, ESQ.
9255 SUNSET BOULEVARD
SUITE 810
LOS ANGELES, CA 90069

EXAMINER
WOO, STELLA L

ART UNIT	PAPER NUMBER
2643	

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<table>
<tr><td rowspan="2">Office Action Summary</td><td colspan="2">Application No.</td><td colspan="2">Applicant(s)</td></tr>
<tr><td colspan="2">09/483,277</td><td colspan="2">KATZ, RONALD A.</td></tr>
<tr><td></td><td colspan="2">Examiner</td><td>Art Unit</td><td></td></tr>
<tr><td></td><td colspan="2">Stella L. Woo</td><td>2643</td><td></td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>11 April 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>47-50 and 52-61</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>47-50 and 52-61</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on April 11, 2005 has been entered.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived
> by the manner in which the invention was made.

3.   Claims are 47-49 rejected under 35 U.S.C. 103(a) as being unpatentable over Barger et al.

(US 4,071,698, hereinafter "Barger") in view of Gordon et al. (US 4,763,191, hereinafter

"Gordon") for the same reasons given in the last Office action.

Barger discloses a method for controlling voice-data communications, comprising the

steps of:

cuing select remote terminal (audio program repeater prompts the push-button caller to

enter responses; col. 6, lines 38-43; col. 11, lines 18-23);

selectively identifying said responsive signals as digital data signals (a push-button caller

can enter an account number, credit card number, selection number; Figs. 4 and 6; col. 4, line 64;

col. 8, lines 60-65; col. 9, lines 40-42; col. 11, lines 18-25) or digital control signals (a push-

button caller can key in a specific code for operator assistance; col. 9, lines 38-40), or both (an

invalid account number entered by the caller causes the call to be transferred to an operator for

assistance; col. 9, lines 40-45), said responsive signals including signals indicative of a customer

card number (credit card number can be used as an account number; col. 2, lines 55-57; col. 4,

lines 63-64; col. 8, lines 60-65);

testing (credit verification takes place based on the credit card number; col. 8, lines 60-

65);

transferring a call to an attended terminal (callers whose credit cannot be validated or

those determined to be freeloaders or those who key in a specified code requesting operator

assistance are automatically connected with an attended terminal 39; col. 9, lines 42-45; col. 11,

lines 34-36; col. 9, lines 38-40) and displaying (operator's terminal displays all the data for the

customer's call including any historical and credit verification data retrieved from memory; col.

5, lines 29-37; col. 6, lines 3-9, 21-29).

Barger differs from claims 47-49 in that it does not specify receiving and recording caller

number identification signals. However, Gordon teaches the well known use of caller number

identification signals in a telephone ordering system for identifying callers and recording the

caller number identifications signals for compiling the necessary delivery and charging

information (col. 2, lines 48-64) such that it would have been obvious to an artisan of ordinary

skill to incorporate the use of caller identification signals, as taught by Gordon, within the

ordering system of Barger to provide additional identifying data for use in compiling the

necessary delivery and charging information.

4.   Claims 50, 52-53, 56-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over

DeBruyn in view of Szlam et al. (US 4,797,911, hereinafter "Szlam") for the same reasons given

in the last Office action.

DeBruyn discloses a method for controlling voice-data communications for use with a

communication facility (telephone exchange 3) including remote terminals (telephone sets 1), the

method comprising the steps of:

interfacing a call from said individual caller to the automated system (after the subscriber

selects the telephone number which has been warded to the Lotto game, he is automatically

connected to the Lotto computer device (page 4, lines 14-23);

receiving data entered by said individual caller including two forms of distinct

identification data (subscriber's telephone number and an associated secret code is received;

page 1, line 28; page 3, line 28; page 6, line 28 – page 7, line 2);

testing at least certain of said data to determine if the individual caller is calling for a first

time or with respect to a limit on use with respect to each individual caller (converting and

confirming apparatus 11 determines whether the phone number of the caller has already been

recorded for the current Lotto game; page 5, lines 11-21; page 3, line 28 – page 4, line 5);

prompting said individual caller via a voice generator to enter additional data (reply

apparatus 8 prompts a caller to enter a Lotto number; page 3, lines 24-26; page 4, line 28 – page

5, line 6).

DeBruyn differs from claims 50, 52-53, 56-60 in that it does not specify that the caller's

telephone number is received as data entered by the caller. However, Szlam teaches the

desirability of receiving a caller's telephone number by prompting the caller to key in this

telephone number (col. 13, lines 18-20) in the event ANI is not available (col. 13, lines 1-2) such

that it would have been obvious to an artisan of ordinary skill to incorporate such prompting and

receiving of a telephone number from the caller, as taught by Szlam, within the method of

DeBruyn in order to accommodate callers from locations in which ANI is not available.

DeBruyn further differs from claims 50, 52-53, 56-60 in that it does not provide for the

steps of transferring the call to an attended terminal and displaying at the attended terminal at

least a portion of the entered data. However, Szlam teaches the desirability of transferring a call

to an operator terminal (col. 12, lines 9-66), in which both data entered by the caller (telephone

number or account number; col. 13, lines 18-22) and data stored for the caller (customer account

information previously stored in the mainframe 16; col. 12, lines 39-42) is displayed upon the

screen of the operator terminal (col. 13, lines 22-29). It would have been obvious to an artisan of

ordinary skill to incorporate such use of an operator terminal, as taught by Szlam, within the

method of DeBruyn in order to provide human assistance as well as to collect more detailed

information regarding the caller.

Regarding claim 52, in DeBruyn, each caller is limited to a permitted number of stakes

per week (page 3, line 28 – page 4, line 2).

Regarding claim 53, DeBruyn provides for a plurality of format configurations (several

groups of electronic apparatus assembled in the same manner, each group of which is intended

for the processing of a specific language and connected to the same central computer 4; page 3,

lines 7-16).

Regarding claims 56-59, Szlam provides for recording audio signals via a message recorder for later playback to an operator terminal (col. 17, lines 27-46), in which the messages can be in analog or digital form (col. 17, liens 32-34).

Regarding claim 60, Szlam provides for displaying the caller's telephone number at the attended terminal (system controller 11 collects the telephone number keyed in by the caller and sends the information collected to the operator terminal for display upon the screen; col. 13, lines 18-25).

5.   Claims 54-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBruyn in view of Szlam, as applied to claim 50 above, and further in view of Entenmann et al. (US 4,996,705, hereinafter "Entenmann") for the same reasons given in the last Office action.

The combination of DeBruyn and Szlam differs from claims 54-55 in that it does not specify receiving caller credit card number data. Rather, in DeBruyn, the lottery participation charges are billed to the caller's telephone account (page 6, lines 24-27). However, Entenmann teaches the well known use of a credit card account to pay for participating in a lottery (col. 2, lines 63-65) such that it would have been obvious to an artisan of ordinary skill to incorporate the use of credit card payment, as taught by Entenmann, within the combination of DeBruyn and Szlam in order to provide a caller with an another payment option.

6.   Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeBruyn, Szlam, and Entenmann, as applied to claims 54-55 above, and further in view of Stephenson, Jr. et al. (US 3,727,186, hereinafter "Stephenson") for the same reasons given in the last Office action.

The combination of DeBruyn, Szlam and Entenmann differs from claim 61 in that although it does teach credit card authorization (Entenmann, col. 2, lines 63-65), it does not

specify testing for negative file data. However, Stephenson teaches that it is old and well known

in the credit authorization art to test for negative file data (warning file 30) when determining

whether or not a credit card number is authorized (col. 5, lines 22-28; col. 6, lines 30-37) such

that it would have been obvious to an artisan of ordinary skill to test for negative file data, as

taught by Stephenson, within the combination of DeBruyn, Szlam and Entenmann so that credit

card number can be more quickly verified by checking against a warning file of unauthorized

credit card numbers.

Response to Arguments

7.   Applicant's arguments filed April 11, 20053 have been fully considered but they are not

persuasive.

Regarding the step of "transferring a call..to an attended terminal and displaying…"

(claim 47), Barger clearly provides for displaying customer information to an operator whenever

the customer is connected with operator, allowing the operator to view all of the data for that

customer's call including any historical credit verification and enter any additional selection or

order data (col. 5, lines 28-45; col. 10, line 55 – col. 11, line 17).

Applicant argues that "no suggestion can be found in Barger of recording 'identification

signals' … 'as additional data' as specified in claim 47." However, Gordon, not Barger, was

relied upon to show the step of "recording…said caller identification signals…as additional

data."

Regarding the step of "testing…to continue," Barger provides for testing for online credit

approval in order to continue with the automated ordering process, i.e. without additional

operator assistance (col. 8, line 60 – col. 9, line 49).

Regarding claims 50, 52-53, 56-60, Applicant argues that contrary to DeBruyn, "Applicant's system as defined by claim 50 involves testing true first time callers." Claim 50 recites "testing …to determine if the individual caller is calling for a first time of record." In DeBruyn, a check is carried out to determine if the phone number of the individual caller has already been recorded for the current Lotto game (page 5, lines 11-14). Therefore, DeBruyn shows testing if the individual caller is calling for a first time of record (auxiliary memory 10) for the current Lotto game.

Regarding Applicant's argument that DeBruyn does not involve transferring of calls, Szlam teaches the desirability of allowing transfer to an operator to provide callers with the option of human assistance.
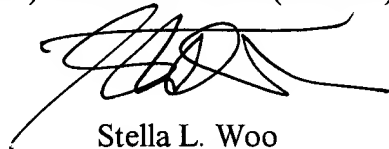
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (571) 272-7512. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stella L. Woo
Primary Examiner
Art Unit 2643